

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL FILE NO. 1:16-cv-00156-MR
CRIMINAL FILE NO. 4:96-cr-00056-MR-1**

TIMOTHY LAMONT RUFF,)
)
 Petitioner,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on two separate, *pro se* motions by Petitioner: a “Motion of Rebuttal for a 60-day Extension” and a “Motion to Present Evidence and Exhibit.” [CV Doc. 8; 9].¹

Petitioner was convicted by plea of one count of conspiracy to commit a robbery in violation of 18 U.S.C. § 1951, one count of robbery in violation of 18 U.S.C. § 1951, and one count of using a firearm in furtherance of a crime of violence in violation of 18 U.S.C. § 924(c). [CR Doc. 68]. The Court sentenced Petitioner to a total of 360 months' imprisonment. [Id.]

1 Citations to the record herein contain the relevant document number referenced preceded by either the letters "CV" denoting that the document is listed on the docket in the civil case file number 1:16-cv-00156-MR, or the letters "CR" denoting that the document is listed on the docket in the criminal case file number 4:96-cr-00056-MR-1.

On June 6, 2016, Petitioner commenced this action by filing a motion to vacate pursuant to 28 U.S.C. § 2255. [CV Doc. 1]. In the motion to vacate, Petitioner contends that his Hobbs Act robbery offense no longer qualifies as a “crime of violence” in light of Johnson v. United States, 135 S. Ct. 2551 (2015). Consequently, Petitioner asserts that his Hobbs Act offense likewise cannot support his § 924(c) conviction and such conviction must be vacated. [Id.].

On August 24, 2016, this Court granted the Government’s motion to stay this action pending a decision by the Fourth Circuit Court of Appeals in the cases of United States v. Ali, No. 15-4433 (4th Cir.) and United States v. Simms, No. 15-4640 (4th Cir.). On September 15, 2016, Petitioner filed a “Motion of Rebuttal for a 60-day Extension.” [CV Doc. 8]. Next, on September 26, 2016, Petitioner filed a “Motion to Present Evidence and Exhibit.” [CV Doc. 9]. In both motions, Petitioner asserts additional arguments in support of the merits of his claims on his motion to vacate. The Court will deny Petitioner’s motions at this time because this action has been stayed.

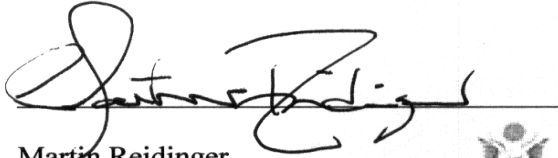
ORDER

IT IS, THEREFORE, ORDERED that Petitioner’s Motion for a Rebuttal for a 60-Day Extension [CV Doc. 8] and Petitioner’s Motion to Present

Evidence and Exhibit [CV Doc. 9] are **DENIED WITHOUT PREJUDICE** at this time because this action has been stayed.

IT IS SO ORDERED.

Signed: October 7, 2016


Martin Reidinger
United States District Judge

